

## Exhibit 3

CAUSE NO. 19-DCV-267154

|                   |   |                                |
|-------------------|---|--------------------------------|
| CAMERON ROESLE    | § | IN THE JUDICIAL DISTRICT COURT |
| <i>Plaintiff,</i> | § |                                |
|                   | § |                                |
| v.                | § | FORT BEND COUNTY, TEXAS        |
|                   | § |                                |
| ROBERT FORAN and  | § |                                |
| NOLAN STAR        | § |                                |
| TRUCKING, LLC     | § | ____ JUDICIAL DISTRICT         |
| <i>Defendant.</i> |   |                                |

### NOTICE OF APPEAL

#### ON

#### EX PARTE TEMPORARY RESTRAINING ORDER ON SEPTEMBER 30, 2021, ORDER SUPPLEMENTING/MODIFYING ORDER APPOINTING RECEIVER

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES, ROBERT FORAN (“DEFENDANT”), and files his Notice of appeal on an order that was issued for Ex Parte Temporary Restraining order on September 30, 2021, and Order Supplementing/Modifying order Appointing receiver on behalf of Plaintiff, Cameron Roesle (“Plaintiff”), and on behalf of Robert Berleth “Court Receiver” and would respectfully show unto the Court the following:

#### **I. CLAIM FOR RELIEF**

1. Defendant requests that this Honorable Court Order issue an order to the Fort Bend County District Court 400<sup>th</sup> judicial district court to reverse their Order Supplementing/Modifying order Appointing receivership as Preferred Ready-Mix LLC is its own entity and has more then one member said within and Fort Bend County District court has not only no Jurisdiction over Preferred Ready-Mix LLC but also has also violated the 5<sup>th</sup> and fourteenth amendment of the united states constitution but seizing and holding hearings behind closed doors violating Preferred Ready-Mix LLC “A non-defendant” in this cases property. Defendant prays for this court to follow the United States constitution and order Fort Bend County district court to release its said property immediately to avoid any further constitutional violations of Preferred Ready-Mix LLC. Defendant hereby gives his notice of appeal on Fort Bend County District Courts 400<sup>th</sup> Judicial District order order

that was issued for Ex Parte Temporary Restraining order on September 30, 2021, and Order Supplementing/Modifying order Appointing receiver on behalf of Plaintiff, Cameron Roesle ("Plaintiff"), and on behalf of Robert Berleth "Court Receiver".

## **II. PARTIES AND SERVICE**

2. Defendant, Robert Foran is an individual in Fort Bend County, Texas.

3. Robert W. Berleth is a receiver that conducts business in Harris County, Texas. Defendant can be served with this Application for Temporary Restraining Order at his place of business, Berleth & Associates, PLLC located at 9950 Cypresswood Dr., Ste. 200, Houston, Texas 77070.

4. Related case in Fort Bend County The lawsuit is styled Cause No. 21-DCV-287128; *Robert Foran v. Cameron Roesle*; In the 400<sup>th</sup> Judicial District Court of Fort Bend County, Texas (“Cause No. 21-DCV-287128”).

### III. JURISDICTION AND VENUE

IV. Jurisdiction is proper in the appeals court because the property subject to this suit was illegally taken and seized by a Fort Bend County, Texas district court 400<sup>th</sup> judicial court order due to fraudulent testimony provided by a witness named Matthew Tyson and Fort Bend County not having any jurisdiction over Preferred Ready-Mix LLC due to Preferred Ready-Mix LLC never being named a party in any suit related to these matters.

### V. FACTUAL AND PROCEDURAL BACKGROUND

5. On September 30, 2019, Cameron Roesle (“Roesle”), initiated a lawsuit against Defendant’s business partner, Robert Foran (“Foran”), and a company called Nolan Star Trucking, LLC (“Nolan Star”). The lawsuit is styled Cause No. 19-DCV-267154; *Cameron Roesle v. Robert Foran and Nolan Star Trucking, LLC*; In the 434<sup>th</sup> Judicial District Court of Fort Bend County, Texas (“Cause No. 19-DCV-267154”).

6. On November 26, 2019, Roesle filed a Motion for Default Judgment and a hearing was held on December 10, 2019.

7. On December 12, 2019, the court entered the default judgment and noted in the

docket entry that Roesle and counsel for Roesle were present and there was no appearance or response filed by Foran or Nolan Star.

8. On June 24, 2020, the court entered an Order Appointing Receiver and appointed Robert Berleth.

9. Foran subsequently filed a Bill of Review on September 3, 2021, in Cause No. 19-DCV-267154 and alleged that he was never served with the Petition and Citation and legal counsel Jonelle Oldacre contacted previous counsel and determined that the reason previous counsel didn't provide any answer was because of previous counsel having cancer.



10. On September 27, 2021, Roesle file his Original Answer to the Bill of Review and Motion for Summary Judgment. The summary judgment is set for October 26, 2021.

11. On or about September 30, 2021, the Receiver filed an Emergency Ex Parte Application for Order Supplementing Order Appointing Receiver (“Emergency Application”).

12. On or about September 30, 2021, the receiver provided fraudulent testimony and a fraudulent affidavit written by Matthew Tyson stating that Mr. Foran was the sole owner of Preferred Ready-Mix LLC and that Lincoln Catchins name was only on the LLC to cover for Mr. Foran and hide assets. Instead of the Receiver Robert Berleth corroborating Mr. Tyson’s statement with Mr. Catchins and requesting a Subpoena and hearing with Mr. Catchins to confirm the statements made by Mr. Tyson, the Receiver Robert Berleth then acted and took information that was false and hearsay by Mr. Tyson speaking for Mr. Catchins and providing a false affidavit and filed an Emergency Ex Parte Application for Order Supplementing Order Appointing Receiver (“Emergency Application”).

13. Details that receiver did not provide to the court was that Mr. Tyson was indeed removed by equal votes of Catchins and Foran for Fraud, Conspiracy to commit fraud, Texas Theft and embezzlement in Preferred Ready-Mix LLC. Receiver also left out that Mr. Tyson was investigated by Fort Bend County District Attorneys’ Office and the Fort Bend County Sheriff’s office for Embezzlement, theft and diversion of funds exceeding \$50,000.00. Instead of Catchins and Foran pursuing criminal charges they opted into removal of Tyson from Company “Preferred Ready-Mix LLC for said within reasons. “See Exhibit D” Noted Notice of Withdrawal of partnership.”

14. Receiver Robert Berleth utilized fraudulent testimony from a witness that was criminally and legally removed from the company.

15. Receiver Robert Berleth provided evidence to sway the court to issue an order based on a witness that had ill intent to harm not only Catchins and Foran but also Preferred Ready-Mix LLC as well.

16. On September 30, 2021, the court signed the Emergency Order (**Exhibit A**), which stated that Foran “has sole ownership interest in and is a managing partner of Preferred Ready-Mix, LLC.”

17. However, as shown in the public records maintained by the Texas Secretary of State (**Exhibits B and C**), Lincoln M. Catchings, III, is part owner of Preferred Ready-Mix, LLC (“Preferred”) in addition to the assets held by the company located at 8750 Scranton Street, Houston, Texas 77075. Lincoln M. Catchings, III owns 50% of Preferred Ready-Mix, LLC. (**Exhibit D**).

18. On October 1, 2021, the Receiver went to the secured warehouse where Defendant operates his business and searched for a way to enter the property, which was enclosed by an electronic gate. The Receiver opened a mailbox, took the electronic gate remote inside, and used it to open the electronic gate. The Receiver then trespassed onto the property and instructed a tow truck company to seize at least eight trucks in addition to supplies, equipment, electronics, tools, fuel cards, credit/debit cards, payment tickets, and other items crucial for Defendant to run his business. The eight trucks seized were as follows:

- Truck 101 peterbilt mixer truck
- Truck 105 peterbilt mixer truck
- Truck 106 peterbilt mixer truck
- Truck 107 peterbilt mixer truck
- Truck 108 peterbilt mixer truck
- Truck 109 peterbilt mixer truck
- Truck 110 peterbilt mixer truck
- Ford F-350 Truck

19. Foran is not the sole owner of Preferred as claimed by the Receiver and Defendant Business Partners ownership interest in the property seized were violated on October 1, 2021. The unlawful taking of Defendants business partners and his property has caused him damages, including attorneys' fees and lost business revenue, which it seeks by this petition. Defendant also seeks the immediate (within 24 hours) return of his property.

20. Preferred Ready-Mix LLC is its own entity separate to Mr. Foran

21. Preferred Ready-Mix LLC was never named as a defendant in none of the cases that are said within and have never even served by this court to be subjected to any order issued by the Fort Bend County District Court.

22. Preferred Ready-Mix LLC due process was violated by not being served and allowed to defend itself for any claims.

23. Preferred Ready-Mix LLC due process was violated against the fourteenth amendment of the United States constitution by seizing property that was owned by an entity Preferred Ready-Mix LLC and not an individual as well as a non-defendant of a active case in which Preferred Ready-Mix LLC had no involvement in.

24. Preferred Ready-Mix LLC due process was violated against the fourteenth amendment of the United States constitution by the Fort Bend County District Court 400<sup>th</sup> judicial district court issuing an order and holding a hearing on Preferred Ready-Mix LLC behind closed doors while parties had knowledge of other said members that were part of Preferred Ready-Mix LLC as well as legal counsel that represented Preferred Ready-Mix LLC in which none was notified or even questioned on known information that would have resulted in the Fort Bend County District Court 400<sup>th</sup> judicial district never issuing any order in regards to Preferred Ready-Mix LLC but information that was known at the time regarding Lincoln Catchins ownership interests was concealed by receiver robert berleth and instead Robert Berleth



Relied on Fraudulent affidavits from a prior business partner Matthew Tyson and used heresay to sway Fort Bend County district court to issue an order that was invalid and knowingly would result in the Violation of the Fourteenth Amendment of the united states constitution.

## **VI. ORDER MUST BE VACATED**

25. In view of the Receiver's failure to establish proper ownership of Preferred and the property taken, Defendant requests that this court VACATE the Order.

26. In view of the Receiver's Failure to Corroborate testimony provided by a Mr. Tyson, Defendant requests that this court vacate the Order.

## **DISQUALIFICATION OF WITNESS MATTHEW TYSON'S STATEMENT**

27. **Pursuant to Rule 602.Texas Rules of Civil Procedure** the Need for Personal Knowledge A witness may testify to a matter only if evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may consist of the witness's own testimony. Receiver Robert Berleth acted on a statement & Affidavit from Mr. Tyson that Mr. Catchins was not an owner of Preferred Ready-Mix LLC and just a name to hide Mr. Foran's and company is Mr. Forans Alter Ego. Mr. Tyson did not have personal Knowledge on what Mr. Catchins Title in the business is due to not being a party to the business since June of 2020 as well as has not talked with Mr. Catchins since that time and only Mr. Catchins would have personal knowledge of what his status in Preferred Ready-Mix LLC.

28. **Pursuant to Rule 603 of the Texas Rules of Civil Procedure.** An Oath or Affirmation to Testify Truthfully Before testifying, a witness must give an oath or affirmation to testify truthfully. It must be in a form designed to impress that duty on the witness's conscience. Mr. Tyson Perjured and lied to Receiver Robert Berleth with ill intent due to him removal of the Business. Receiver accepted hearsay testimony and affidavit and presented to the court these documents. Defendant requests that the court



validate statements and affidavits made by Mr. Tyson and move to criminally charge Mr. Tyson with Perjury upon findings that statements made by Tyson were knowingly false with the intent to deceive and cause the court to act in a manner that would ultimately issue an order based on his statements and affidavits.

29. On October 1, 2021, the Receiver Robert Berleth and Judge Tameika Carter had a personal friendship and did a lot of cases together. While Foran was on the phone with at the time the Companies Attorney Jonelle Oldacre receiver Robert Berleth stated that he and Judge Carter discussed the bill of review, and both supposedly laughed at the bill of review stating that the bill of review was a joke and Judge Carter would be issuing a summary Judgment on the case soon.

30. Upon Receiver executing a seizure of property and making judicially bias comments over the phone with Preferred Ready-Mix LLC counsel Jonelle Oldacre Mr. Foran notified the Receiver Robert Berleth that an answer with an affidavit from prior counsel would be provided on that summary judgment stating that the reason prior counsel didn't provide an answer was because prior counsel admitted to Jonelle Oldacre that he had cancer at the time and became sick. Mr. Berleth stated sure he did.

31. **Pursuant to Rule 608(b) of the Texas rules of civil procedures.** A Witness's Character for Truthfulness or Untruthfulness, Defendant can have not only Catchins and Foran issue testimony against Mr. Tyson on his character of Truthfulness but also evidence that he was removed from the Company for Theft, Embezzlement and several other criminal acts that resulted into Mr. Tysons removal from the company.

32. It is not sufficient to merely VACATE the Order but also to disqualify the witness Mr. Tysons statements herein due to the bias reasons to harm Foran, Catchins and Preferred Ready-Mix LLC. Defendant requests the Court order the Receiver to restore Preferred Ready-Mix LLC and Defendants business partner Mr. Catchins to the position he was in before the actions of the Receiver subsequent the Order. This would require the Receiver to restore 100% of

the property taken under the Order and to bear the costs of doing so. The Receiver has no authority or claim over Defendant or his jointly owned business partners property.

**VII. APPLICATION FOR TEMPORARY RESTRAINING ORDER**

**A. CAUSE OF ACTION**

33. Defendant's Application for a Temporary Restraining Order is authorized by **Tex.**

**Civ. Prac. & Rem. Code §65.011.** Defendant seeks an Order restraining the Receiver from seizing the physical assets of Preferred Ready-Mix, LLC, including intellectual property, and specifically the concrete mixers.

34. It is probable that Defendant will prevail after a trial on the merits because, the application for Ex parte was based on fraudulent affidavits and misleading information subjected to the court to make an error order. As such, his constitutional due process rights have been violated

35. If Defendant Application for Temporary Restraining Order is not granted, harm is imminent because Defendant will not be able to operate his business and he will suffer great financial harm in addition to legal exposure for the inability to meet his contractual obligations due to the unlawful seizure.

36. The harm that will result if the temporary restraining order is not issued is irreparable because Defendants business partner has ownership interest in the property seized and will be wrongfully kept from his property, which is needed to operate Preferred.

37. Defendant has no adequate remedy at law because the Receiver has refused to return the property and has engaged in tortious conduct and misrepresentations to secure the Emergency Order in stating that Foran was the sole owner of Preferred in spite of the publicly accessible information establishing Defendants and his business partners ownership rights in Preferred.

38. Defendant does not have the ability to pay bond and will submit a statement of inability to afford costs.

39. There is not enough time to serve notice on the Receiver and to hold a contested hearing on this application. Preferred is inoperable without its trucks and needs them returned immediately.

40. The purpose of a temporary restraining order is “to preserve the status quo” until a preliminary hearing can be held on an application for a temporary injunction. *In re Newton*, 146 S.W. 3d 648, 651 (Texas 2004). “The status quo is the last actual, peaceable, noncontested status which preceded the pending controversy.” *Sharma v. Vinmar Int’l, Ltd.*, 231 S.W.3d 405, 419 (Texas. App. –Houston [14<sup>th</sup> Dist.] 2007, pet. dismiss’d). Defendant seeks to preserve the status quo that existed prior to the Receiver’s unlawful taking.



**VIII. REQUEST FOR TEMPORARY INJUNCTION**

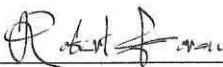
41. Defendant asks the Court to set a hearing for a Temporary Injunction, and after hearing the Application for Temporary Injunction, issue a temporary injunction against the Receiver enjoining the Receiver from seizing any of the assets or property of Defendant or Preferred, specifically, the physical assets of Preferred Ready-Mix, LLC, including intellectual property and specifically the concrete mixers, thus rendering the Emergency Order ineffective.

**PRAYER**

42. For these reasons, Defendant asks the Honorable Appeals Court to enjoin the Receiver and any of its agents or representatives as well as the Fort Bend County District Court 400<sup>th</sup> judicial district from the seizing of any property located at 8750 Scranton Street, Houston, Texas 77075. Defendant asks that the status quo be maintained. Defendant further requests the Court order the Receiver to restore Defendant and his business partner to the position he was in before the actions of the Receiver subsequent the Emergency Order entered September 30, 2021. This would require the Receiver to restore 100% of the property taken under the Emergency Order within twenty-four (24) hours and to bear the costs of doing so.

Respectfully submitted,

ROBERT FORAN, PRO SE

BY:  \_\_\_\_\_

ROBERT FORAN, PRO SE

(346)-702-6951



**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was served pursuant to the Texas Rules of Civil Procedure via facsimile on the 12<sup>th</sup> day of October 2021.

**VIA E-SERVICE AND/OR EMAIL**

Robert Berleth  
9500 Cypresswood, Ste 200  
Houston, Texas 77070  
Tel: 713-588-6900  
Fax: 713-481-0894  
rberleth@berlethlaw.com

**CAUSE NO. 19-DCV-267154**

|                          |   |                                     |
|--------------------------|---|-------------------------------------|
| CAMERON ROESLE,          | § | IN THE DISTRICT COURT OF            |
|                          | § |                                     |
| <i>Plaintiff,</i>        | § |                                     |
| <i>v.</i>                | § | FORT BEND COUNTY, TEXAS             |
|                          | § |                                     |
| ROBERT FORAN and         | § |                                     |
| NOLAN STAR TRUCKING, LLC | § |                                     |
|                          | § |                                     |
| <i>Defendants.</i>       | § | 400 <sup>th</sup> JUDICIAL DISTRICT |

**EX PARTE****ORDER SUPPLEMENTING RECEIVERSHIP**

Following approximately thirteen months of collection efforts by the Receiver, and after review of the Receiver's Emergency Ex Parte Application for and Order Supplementing Order Appointing Receiver, relevant statutory and case law, and the arguments of counsel, the Court is of the opinion that the motion should be in all things GRANTED. Therefore:

The Court FINDS:

- 1) The Court entered an Order Appointing Receiver on June 24, 2020, and this Order shall supplement the Order Appointing Receiver, specifically authorizing the Receiver to collect the cement mixers owned by Preferred Ready-Mix, LLC;
- 2) The Debtor has sole ownership interest in and is a managing partner of Preferred Ready-Mix, LLC;
- 3) Preferred Ready-Mix, LLC has a substantial likelihood of being found to be the Debtor's alter ego;
- 4) Preferred Ready-Mix, LLC has assets subject to levy by the Receiver; and,

- 5) There is a significant chance the Debtor will secret, liquidate, or abscond with the assets of Preferred Ready-Mix, LLC if he is advised of the pending collection or seizure by the Receiver;

Therefore, the Court ORDERS:

- 6) The Receiver is to immediately seize the physical assets of Preferred Ready-Mix, LLC, including intellectual property and specifically to seize the concrete mixers wherever they may be found, and hold such property in safe keeping until such time the Debtor and Preferred Ready-Mix, LLC can be heard by the Court. The Receiver is authorized to use reasonable destructive means to gain access and seize the vehicles.
- 7) That the Receivership and Receiver shall remain in place and continue as ordered;
- 8) Any and all other relief not expressly granted herein is granted.

SIGNED AND ENTERED: September 30, 2021

  
Honorable Tameika Carter  
JUDGE PRESIDING

#### END OF ORDER ####

Filing# [REDACTED] Document#:986651780002 Filed On 7/30/2020 received by Upload

**EXHIBIT B****Form 424****(Revised 05/11)**

Submit in duplicate to:  
 Secretary of State  
 P.O. Box 13697  
 Austin, TX 78711-3697  
 512 463-5555  
 FAX: 512/463-5709  
 Filing Fee: See instructions



This space reserved for office use.

**Certificate of Amendment****Entity Information**

The name of the filing entity is:

PREFERRED READY-MIX LLC

State the name of the entity as currently shown in the records of the secretary of state. If the amendment changes the name of the entity, state the old name and not the new name.

The filing entity is a: (Select the appropriate entity type below.)

- |   |   |
|---|---|
| <input type="checkbox"/> For-profit Corporation               | <input type="checkbox"/> Professional Corporation               |
| <input type="checkbox"/> Nonprofit Corporation                | <input type="checkbox"/> Professional Limited Liability Company |
| <input type="checkbox"/> Cooperative Association              | <input type="checkbox"/> Professional Association               |
| <input checked="" type="checkbox"/> Limited Liability Company | <input type="checkbox"/> Limited Partnership                    |

The file number issued to the filing entity by the secretary of state is: [REDACTED]

The date of formation of the entity is: 3/19/2019

**Amendments****1. Amended Name**

(If the purpose of the certificate of amendment is to change the name of the entity, use the following statement)

The amendment changes the certificate of formation to change the article or provision that names the filing entity. The article or provision is amended to read as follows:

The name of the filing entity is: (state the new name of the entity below)

The name of the entity must contain an organizational designation or accepted abbreviation of such term, as applicable.

**2. Amended Registered Agent/Registered Office**

The amendment changes the certificate of formation to change the article or provision stating the name of the registered agent and the registered office address of the filing entity. The article or provision is amended to read as follows:



## Registered Agent

(Complete either A or B, but not both. Also complete C.)

- ☐ A. The registered agent is an organization (cannot be entity named above) by the name of:

OR

- ☒ B. The registered agent is an individual resident of the state whose name is:

|                   |             |                  |               |
|-------------------|-------------|------------------|---------------|
| Lincoln           | M           | Catchings        |               |
| <i>First Name</i> | <i>M.I.</i> | <i>Last Name</i> | <i>Suffix</i> |

The person executing this instrument affirms that the person designated as the new registered agent has consented to serve as registered agent.

- C. The business address of the registered agent and the registered office address is:

|                                     |             |              |                 |
|-------------------------------------|-------------|--------------|-----------------|
| 6611 Ivy Heath Lane                 | Houston     | TX           | 77041           |
| <i>Street Address (No P.O. Box)</i> | <i>City</i> | <i>State</i> | <i>Zip Code</i> |

### 3. Other Added, Altered, or Deleted Provisions

Other changes or additions to the certificate of formation may be made in the space provided below. If the space provided is insufficient, incorporate the additional text by providing an attachment to this form. Please read the instructions to this form for further information on format.

Text Area (The attached addendum, if any, is incorporated herein by reference.)

- ☒ Add each of the following provisions to the certificate of formation. The identification or reference of the added provision and the full text are as follows:

GOVERNING PERSON 2  
NAME: MATTHEW TYSON TITLE: MANAGER  
ADDRESS: 5511 OLYMPIAD DRIVE, HOUSTON, TX 77041

- ☐ Alter each of the following provisions of the certificate of formation. The identification or reference of the altered provision and the full text of the provision as amended are as follows:

- ☐ Delete each of the provisions identified below from the certificate of formation.

### Statement of Approval

The amendments to the certificate of formation have been approved in the manner required by the Texas Business Organizations Code and by the governing documents of the entity.

**Effectiveness of Filing** (Select either A, B, or C.)

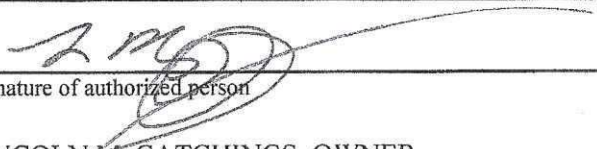
- A. ☒ This document becomes effective when the document is filed by the secretary of state.
- B. ☐ This document becomes effective at a later date, which is not more than ninety (90) days from the date of signing. The delayed effective date is: \_\_\_\_\_
- C. ☐ This document takes effect upon the occurrence of a future event or fact, other than the passage of time. The 90<sup>th</sup> day after the date of signing is: \_\_\_\_\_
- The following event or fact will cause the document to take effect in the manner described below:

**Execution**

The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized under the provisions of law governing the entity to execute the filing instrument.

Date: 7/30/2020

By: \_\_\_\_\_

  
\_\_\_\_\_  
Signature of authorized person

LINCOLN M. CATCHINGS, OWNER

\_\_\_\_\_  
Printed or typed name of authorized person (see instructions)

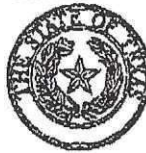
OCT/09/2019/WED 10:05 AM LMK RESOURCES, INC.

FAX No. 281 568 7315

P. 002

**EXHIBIT C****Form 424  
(Revised 05/11)**

Submit in duplicate to:  
Secretary of State  
P.O. Box 13697  
Austin, TX 78711-3697  
512 463-5555  
FAX: 512/463-5709  
Filing Fee: See instructions

**Certificate of Amendment**

This space reserved for office use.

**FILED**  
In the Office of the  
Secretary of State of Texas

**OCT 09 2019****Corporations Section****Entity Information**

The name of the filing entity is:

**PREFERRED READY-MIX LLC**

State the name of the entity as currently shown in the records of the secretary of state. If the amendment changes the name of the entity, state the old name and not the new name.

The filing entity is a: (Select the appropriate entity type below.)

- |  |   |
|--|---|
| <input type="checkbox"/> For-profit Corporation    | <input type="checkbox"/> Professional Corporation               |
| <input type="checkbox"/> Nonprofit Corporation     | <input type="checkbox"/> Professional Limited Liability Company |
| <input type="checkbox"/> Cooperative Association   | <input type="checkbox"/> Professional Association               |
| <input type="checkbox"/> Limited Liability Company | <input type="checkbox"/> Limited Partnership                    |

The file number issued to the filing entity by the secretary of state is: [REDACTED]The date of formation of the entity is: 3/19/2019**Amendments****1. Amended Name**

(If the purpose of the certificate of amendment is to change the name of the entity, use the following statement)

The amendment changes the certificate of formation to change the article or provision that names the filing entity. The article or provision is amended to read as follows:

The name of the filing entity is: (state the new name of the entity below)

---

The name of the entity must contain an organizational designation or accepted abbreviation of such term, as applicable.

**2. Amended Registered Agent/Registered Office**

The amendment changes the certificate of formation to change the article or provision stating the name of the registered agent and the registered office address of the filing entity. The article or provision is amended to read as follows:



**Registered Agent**  
(Complete either A or B, but not both. Also complete C.)

☐ A. The registered agent is an organization (cannot be entity named above) by the name of:

OR

☐ B. The registered agent is an individual resident of the state whose name is:

| First Name | M.I. | Last Name | Suffix |
|------------|------|-----------|--------|
|------------|------|-----------|--------|

The person executing this instrument affirms that the person designated as the new registered agent has consented to serve as registered agent.

C. The business address of the registered agent and the registered office address is:

| Street Address (No P.O. Box) | City | State | Zip Code |
|------------------------------|------|-------|----------|
|                              |      | TX    |          |

**3. Other Added, Altered, or Deleted Provisions**

Other changes or additions to the certificate of formation may be made in the space provided below. If the space provided is insufficient, incorporate the additional text by providing an attachment to this form. Please read the instructions to this form for further information on format.

Text Area (The attached addendum, if any, is incorporated herein by reference.)

☒ Add each of the following provisions to the certificate of formation. The identification or reference of the added provision and the full text are as follows:

GOVERNING PERSON 2  
NAME: MATTHEW TYSON TITLE: MANAGER  
ADDRESS: 5511 OLYMPIAD DRIVE, HOUSTON, TX 77041  
GOVERNING PERSON 3  
NAME: LINCOLN M. CATCHINGS TITLE: MANAGER  
ADDRESS: 6611 IVY HEATH LN, HOUSTON, TX 77041

☐ Alter each of the following provisions of the certificate of formation. The identification or reference of the altered provision and the full text of the provision as amended are as follows:

☒ Delete each of the provisions identified below from the certificate of formation.

OSMANY V. CALDERON- GOVERNING PERSON 2  
7600 HIGHMEADOW DR  
HOUSTON, TX 77063

**Statement of Approval**

The amendments to the certificate of formation have been approved in the manner required by the Texas Business Organizations Code and by the governing documents of the entity.



**Effectiveness of Filing** (Select either A, B, or C.)


- A. ☒ This document becomes effective when the document is filed by the secretary of state.
- B. ☐ This document becomes effective at a later date, which is not more than ninety (90) days from the date of signing. The delayed effective date is: \_\_\_\_\_
- C. ☐ This document takes effect upon the occurrence of a future event or fact, other than the passage of time. The 90<sup>th</sup> day after the date of signing is: \_\_\_\_\_
- The following event or fact will cause the document to take effect in the manner described below:

**Execution**

The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized under the provisions of law governing the entity to execute the filing instrument.

Date: 10/8/2019

By: ROBERT FORAN

  
Signature of authorized person

ROBERT FORAN  
Printed or typed name of authorized person (see instructions)

**NOTICE OF WITHDRAWAL FROM PARTNERSHIP**

**State of Texas**

**ATTN: Matthew Tyson**

**Matthew Tyson** (the "Withdrawing Partner") is of the following address:

5511 Olympiad Drive

Houston, Texas 77041

The Withdrawing Partner is a Partner in the Partnership of Preferred Ready-Mix LLC (the "Partnership"), formed in accordance with the provisions of an oral agreement dated **2019-10-09** for the following purpose:

Preferred Ready-Mix LLC is a concrete delivery company. Verbal Partnership agreements were that the two additional Partners Matthew Tyson, and Lincoln Catchins would provide two additional concrete trucks and make further investments in Concrete trucks to expand the company. Further Purpose of the Partnership was to provide Preferred Ready-Mix LLC with Financial Assistance in covering any additional expenses for the growth of the company. **Matthew Tyson failed to fulfill those obligations and vacated the business in June of 2020 and has been absent since that date.**

As provided by the Partnership Agreement, Matthew Tyson is required to withdraw from the Partnership by reason(s) of the **Withdrawing Partner's breach of fiduciary duty, Breaching the verbal partnership agreement or otherwise failing to carry out the partner's obligations under the agreement.**

The Withdrawing Partner will be leaving the Partnership on the following date: **2021-4-18. "April 18th, 2021.**

The Partners remaining in the Partnership are as follows:

**1. Robert Foran, 50% ownership rights of Preferred Ready-Mix LLC**, located at the following address:

9526 Bonbrook Bend Lane  
Richmond, Texas 7469

**2. Lincoln Catchins, 50% ownership rights of Preferred Ready-Mix LLC** located at the following address:

6611 Ivy Heath Lane  
Houston, Texas 77041

With this document, the Partnership gives to the Withdrawing Partner the following amount of notice of involuntary withdrawal: 5 days in writing by registered or certified mail to the Withdrawing Partner at the Withdrawing Partner's last known address.

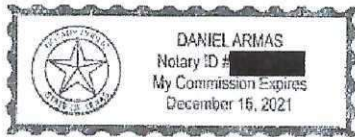
The Partnership Agreement provides that the exclusive jurisdiction for the enforcement of this matter is the courts of State of Texas.

Robert Foran

Signature: [Signature]

Date: 3-18-21

SUBSCRIBED AND SWORN TO before me on this 18<sup>th</sup> day of March, 2021.



[Signature]  
NOTARY PUBLIC IN AND FOR  
THE STATE OF TEXAS

Daniel Armas

Printed Name of Notary

My Commission Expires: 12/15/2021



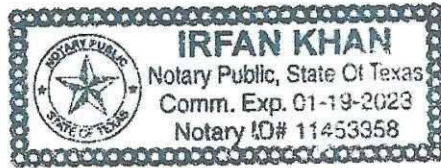
Lincoln Catchins

Signature :

[Signature]

Date : 04-10-2021

SUBSCRIBED AND SWORN TO before me on this 10 day of March, 2021.



[Signature]  
NOTARY PUBLIC IN AND FOR

THE STATE OF TEXAS

Irfan Khan

Printed Name of Notary

My Commission Expires: 1-19-2023

CAUSE NO. \_\_\_\_\_

LINCOLN M. CATCHINGS, III § IN THE JUDICIAL DISTRICT COURT  
Plaintiff, §

v. §

HARRIS COUNTY, TEXAS

ROBERT W. BERLETH §  
Defendant. §

\_\_\_\_ JUDICIAL DISTRICT

**UNSWORN DECLARATION OF LINCOLN M. CATCHINGS, III IN SUPPORT OF  
PLAINTIFF'S ORIGINAL PETITION AND EMERGENCY MOTION  
FOR EX PARTE TEMPORARY RESTRAINING ORDER AND MOTION TO VACATE  
SEPTEMBER 30, 2021 ORDER SUPPLEMENTING/MODIFYING ORDER  
APPOINTING RECEIVER**

Pursuant to C.P.R.C. § 132.001, I declare as follows:

1. "My name is LINCOLN M. CATCHINGS, III. I am more than 18 years of age, and I am fully competent to make this affidavit. I reside at 6611 FVY Heath Ln. The facts stated in this affidavit are true and correct and are within my personal knowledge.
2. I have read the foregoing **PLAINTIFF'S ORIGINAL PETITION AND EMERGENCY MOTION FOR EX PARTE TEMPORARY RESTRAINING ORDER AND MOTION TO VACATE SEPTEMBER 30, 2021 ORDER SUPPLEMENTING/MODIFYING ORDER APPOINTING RECEIVER** and I have knowledge of the facts set forth therein and know them to be true and correct. The facts stated therein are incorporated into this declaration by reference for all purposes. As such, I make this declaration.
3. On October 1, 2021, Robert W. Berleth entered the property of my business, Preferred Ready-Mix, LLC, and seize at least eight trucks in addition supplies, equipment, electronics, tools, fuel cards, credit/debit cards, payment tickets, and other items crucial for me to run the business with my partner, Robert Foran. The seven trucks seized were as follows:
  - Truck 101 peterbilt mixer truck
  - Truck 105 peterbilt mixer truck
  - Truck 106 peterbilt mixer truck
  - Truck 107 peterbilt mixer truck
  - Truck 108 peterbilt mixer truck
  - Truck 109 peterbilt mixer truck
  - Truck 110 peterbilt mixer truck
  - Ford F-150 Truck
4. The Order Robert W. Berleth obtained providing this authority states that Robert Foran is the sole owner of Preferred Ready-Mix, LLC. However, I am a part owner of the Preferred Ready-Mix, LLC and the assets and property that Robert W. Berleth seized on October 1, 2021.
5. Due to the seizure, I am now unable to run my business and I am suffering damages and legal exposure due to the seizure."

Jurat:

My name is LINCOLN M. CATCHINGS, III, my date of birth is 07-22-1971  
19 71, and my address is 6611 FVY Heath Ln, Houston. I declare under penalty of perjury

that this declaration is true and correct.

Executed in \_\_\_\_\_ County, Texas, on the \_\_\_\_\_ day of \_\_\_\_\_,  
2021.

  
\_\_\_\_\_  
LINCOLN M. CATCHINGS, III